

AMENDED IN ASSEMBLY JANUARY 26, 2012

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 467

Introduced by Assembly Member Eng
(Principal coauthor: Assembly Member Roger Hernández)
(Coauthor: Assembly Member Portantino)
(Coauthors: Senators Hernandez and Huff)

February 15, 2011

An act to amend Section 75101 of the Public Resources Code, relating to the environment, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 467, as amended, Eng. Environment: Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

The

(1) *The* Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative statute approved by the voters at the November 7, 2006, statewide general election, makes approximately \$5.4 billion in bond funds available for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. The bond act makes \$60,000,000 available to the State Department of Public Health for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water and requires the department to require repayment for costs that are

subsequently recovered from parties responsible for the contamination. Existing law requires the State Department of Public Health, in collaboration with the Department of Toxic Substances Control and the State Water Resources Control Board, to develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination of groundwater.

This bill would instead require the State Department of Public Health, in collaboration with those agencies, to develop guidelines governing this repayment ~~that would. The bill would authorize the department to enter into an agreement with a grantee that would require the grantee to attempt to recover the costs from responsible parties and would allow grantees to retain utilize the repayments to fund ongoing or additional groundwater cleanup activities authorized in the agreement.~~ The bill would also make a declaration concerning the ~~compliance of those grantees with the bond act utilization of those repayments.~~

(2) ~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares that it is the*
- 2 *intent of the Legislature that the State Department of Public Health,*
- 3 *when adopting guidelines pursuant to Section 75101 of the Public*
- 4 *Resources Code, address the criteria under which a grantee may*
- 5 *utilize the repayments recovered from responsible parties to fund*
- 6 *ongoing or additional groundwater cleanup activities within its*
- 7 *jurisdiction. The Legislature further finds and declares that it is*
- 8 *the intent of the Legislature that, in determining the circumstances*
- 9 *when repayments may be utilized by a grantee for additional*
- 10 *groundwater cleanup activities, the department give preference*
- 11 *to projects that meet one or more of the following conditions:*
- 12 (i) *The grant amount awarded to the grantee by the department*
- 13 *and the amount recovered from the responsible party, in total, do*
- 14 *not exceed the grantee's total cost either to clean up the*
- 15 *contaminated groundwater or to prevent the groundwater from*
- 16 *becoming contaminated.*
- 17 (b) *The grantee has additional areas of groundwater*
- 18 *contamination within its jurisdiction for which there is no*

1 *potentially responsible party, and the repayment will be used to*
2 *clean up groundwater contamination in one or more of those*
3 *locations.*

4 *(c) The repayment will be used to clean up areas of groundwater*
5 *contamination within the grantee's jurisdiction where costs*
6 *recovered from responsible parties are insufficient to pay for the*
7 *full costs of cleanup.*

8 *(d) Groundwater is the primary source of drinking water, and*
9 *the grantee will use the repayment for groundwater contamination*
10 *cleanup activities at additional sites within its jurisdiction that are*
11 *on the list maintained by the Department of Toxic Substances*
12 *Control pursuant to Section 25356 of the Health and Safety Code*
13 *or the National Priorities List pursuant to the federal*
14 *Comprehensive Environmental Response, Compensation, and*
15 *Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).*

16 **SECTION 1.**

17 **SEC. 2.** Section 75101 of the Public Resources Code is
18 amended to read:

19 75101. (a) For the purposes of implementing Section 75025,
20 the State Department of Public Health shall do all of the following:

21 (1) Develop guidelines pursuant to Section 75100 in
22 collaboration with the Department of Toxic Substances Control
23 and the state board.

24 (2) (A) In collaboration with the Department of Toxic
25 Substances Control and the state board, develop *and adopt*
26 *guidelines governing the repayment of costs that are subsequently*
27 *recovered from parties responsible for the contamination and that*
28 *authorize grantees to retain repayments from the responsible parties*
29 *to fund ongoing or additional groundwater cleanup activities in*
30 *the grantee's jurisdiction.*

31 ~~(B) A grantee that recovers costs from a party responsible for~~
32 ~~the contamination and retains the repayments for ongoing or~~
33 ~~additional activities to clean up contaminated groundwater in~~
34 ~~furtherance of the program prescribed by the State Department of~~
35 ~~Public Health and consistent with guidelines developed under~~
36 ~~subparagraph (A) shall be deemed to be in compliance with Section~~
37 ~~75025.~~

38 *(B) The guidelines may include a provision to allocate up to 3*
39 *percent of the recovered funds to pay for the oversight costs of the*
40 *State Department of Public Health to ensure the grantee expends*

1 *the recovered funds on additional groundwater cleanup activities*
2 *in furtherance of the purposes of Section 75025.*

3 *(b) The State Department of Public Health may include, in an*
4 *agreement between a grantee and the department for funds granted*
5 *pursuant to Section 75025, all of the following provisions:*

6 *(1) A requirement that the grantee take appropriate action to*
7 *attempt to recover the costs of cleanup from the parties responsible*
8 *for the contamination.*

9 *(2) A specification that any funds recovered by the grantee*
10 *pursuant to paragraph (1) are deemed to be under the control and*
11 *authority of, and thereby repaid to, the state.*

12 *(3) A provision that allows the grantee to utilize the costs*
13 *recovered from the responsible parties for the purposes specified*
14 *in the agreement, including, but not limited to, ongoing*
15 *groundwater cleanup activities, in accordance with the purposes*
16 *for which funds may be granted pursuant to Section 75025.*

17 ~~*(b)*~~

18 *(c) For the purposes of implementing subdivision (a) of Section*
19 *75050, the Department of Fish and Game, when funding a natural*
20 *community conservation plan, shall fund only the development of*
21 *a natural community conservation plan that is consistent with the*
22 *Natural Community Conservation Planning Act (Chapter 10*
23 *(commencing with Section 2800) of Division 3 of the Fish and*
24 *Game Code).*

25 ~~*(e)*~~

26 *(d) The San Francisco Bay Area Conservancy may use the funds*
27 *made available pursuant to subdivision (c) of Section 75060 to*
28 *restore the salt ponds in the south San Francisco Bay and to create*
29 *trails and visitor facilities for public use in that area.*

30 *SEC. 3. This act is an urgency statute necessary for the*
31 *immediate preservation of the public peace, health, or safety within*
32 *the meaning of Article IV of the Constitution and shall go into*
33 *immediate effect. The facts constituting the necessity are:*

34 *In order to allow a grantee conducting groundwater cleanup*
35 *activities to continue those activities, thereby better protecting*
36 *public health and safety and the environment, it is necessary that*
37 *this act take effect immediately.*